

January 16, 2014

Telephone: 717-783-9454

Fax: 717-787-8820

Great Cove Golf and Recreation Club
366 Riggs Drive
McConnellsburg, PA 17233

RE: Operation of Another Business on Licensed Premises

Dear Licensee:

ISSUE: This office is in receipt of your e-mail correspondence of December 13, 2013, wherein it is requested that the existing condition of physical sale separation of malt beverages and normal golf purchases be modified to allow for service of both over the same counter.

Pennsylvania Liquor Control Board (“Board”) records indicate that Great Cove Golf and Recreation Club (“Great Cove”) holds Privately-Owned Public Golf Course Malt Beverage Dispenser License No. PGE-3 (LID 9098) for use at the premises located at 366 Riggs Drive, McConnellsburg, Pennsylvania.

During an investigation conducted on January 7, 2014, it was clarified that Great Cove is seeking to move an unlicensed pro shop into its already licensed eighteen (18)-foot by thirty-three (33)-foot serving area. The pro shop is owned and operated by Great Cove, which receives all of the profits from the operation of the same. The relocated pro shop will be delineated by three (3) counters that are forty-two (42) inches high, and there will be a three (3)-foot opening between the counters of the pro shop and the licensed area. There will be separate registers for the pro shop and for the licensed business.

OPINION: Please be advised that section 3.52(b) of the Board’s Regulations provides that “[l]icensed premises may not have an inside passage or communication to or with any business conducted by the licensee or other persons except as approved by the Board. [40 Pa. Code § 3.52(b)]. Historically, the Board has taken the position that a pro shop is a separate business, distinct from the operation of premises licensed to sell liquor and/or malt or brewed beverages, thus requiring Board approval.

Section 3.53 of the Board's Regulations provides that "[w]here the Board has approved the operation of another business which has an inside passage or communication to or with the licensed premises, storage and sales of liquor and malt or brewed beverages shall be confined strictly to the premises covered by the license." [40 Pa. Code § 3.53]. Further, section 3.54 of the Board's Regulations provides that "[w]here the Board has approved the operation of another business which has an inside passage or communication to or with the licensed premises, the extent of the licensed area shall be clearly indicated by a permanent partition at least 4 feet in height." [40 Pa. Code § 3.54]. Pursuant to section 468(e) of the Liquor Code, the Board is not permitted to approve an interior connection that is greater than ten (10) feet wide between a licensed business and another business. [47 P.S. § 4-468].

Your request is being forwarded to the Bureau of Licensing for further processing.

Should you have any additional questions or concerns regarding the Liquor Code or the Board's Regulations, please do not hesitate to again contact this office.

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR OTHERS FROM CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE. THE PROPRIETY OF THE PROPOSED CONDUCT HAS BEEN ADDRESSED ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND POLICIES ON WHICH THIS OPINION IS BASED ARE SUBJECT TO CHANGE BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL BOARD.

Very truly yours,

**FAITH S. DIEHL
CHIEF COUNSEL**

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement
Jerry W. Waters, Director of Office of Regulatory Affairs
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 13-543